

## Message Text

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PAGE 01 SANTIA 05451 072353Z

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ACTION SS-30

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FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC IMMEDIATE 6473

S E C R E T SANTIAGO 5451

EXDIS

E.O. 11652: GDS

TAGS: CI, UN, PFOR

SUBJECT: COPPER COMPENSATION PROBLEMS

REF: STATE 216697

1. SUMMARY: SAENZ FULLY AGREES WITH POINTS MADE REFTEL. HE ASSERTS HE IS PRESSING JUNTA GOVERNMENT TO ESTABLISH SMALL GROUP IN WHICH IT HAS FULL CONFIDENCE TO PROCEED RAPIDLY, DECISIVELY, AND FLEXIBLY TO RESOLVE PROBLEM THROUGH DIRECT DISCUSSIONS WITH COMPANIES, WITH PROCEDURES OR FRAMEWORK TO ENCOMPASS SETTLEMENT TO BE DEvised AFTER AGREEMENT WITH COMPANIES ACHIEVED. HOWEVER, GOC SUBJECT TO COUNTERVAILING PRESSURES FROM OTHERS WHO PROPOSE DETERMINING SETTLEMENT MECHANISM TO BE EMPLOYED FIRST AND THEN TRYING TO APPLY THIS TO ALL SITUATIONS. SAENZ ATTRIBUTES THIS THESIS TO THE ESTABLISHED BUREAUCRACY AND INSISTS THAT IF IT CARRIES THE DAY IT WILL BE IMMENSELY DAMAGING TO CHILE BY DELAYING A COPPER SETTLEMENT FOR FROM THREE TO FIVE YEARS AND HE WILL REFUSE TO BE ASSOCIATED WITH IT. HE SAYS THE DEBATE IS JOINED AND THE JUNTA GOVERNMENT WILL HAVE TO MAKE A DECISION, BUT THE ISSUE IS IN DOUBT. ACTION: RECOMMEND DEPARTMENT CONSIDER AUTHORIZING ME TO DISCUSS WITH JUNTA MEMBER MERINO AS CHAIRMAN OF GOC ECONOMIC COUNCIL. END SUMMARY

2. I CALLED ON ORLANDO SAENZ NOV 6 AT MY REQUEST. RICARDO CLARO AND RODOLFO KANTOR OF SAENZ TEAM WERE PRESENT. AFTER AMENITIES AND DISCUSSION OF OTHER TOPICS RAISED BY SAENZ, I

SECRET

SECRET

PAGE 02 SANTIA 05451 072353Z

ASKED WHETHER I MIGHT RESPOND TO HIS QUESTION TO AMBASSADOR

DAVIS ON THIS SUBJECT AND MAKE SOME ADDITIONAL OBSERVATIONS. WITH SAENZ'S ASSENT, I COVERED POINTS IN PARAS TWO THROUGH FIVE OF REFTEL. SAENZ'S REACTIONS WERE AS FOLLOWS:

3. HE SAID HE UNDERSTOOD OUR OPINION THAT THE ONLY WAY TO TEST THE PRACTICALITY OF HIS PROPOSALS IS TO GO FORWARD WITH DIRECT DISCUSSIONS WITH THE COMPANIES.

4. HE AGREED WITH THE DESIRABILITY OF TAKING THESE CASES ONE AT A TIME, PRESSING TO RESOLVE THE EASIER ONES WHILE WORKING MORE GRADUALLY TO NARROW THE DIFFERENCES IN THE OTHERS. IN FACT, HE SAID THIS IS PRECISELY THE PROCEDURE HE HAS PROPOSED.

5. SAENZ LISTENED CAREFULLY TO MY ARGUMENT ABOUT THE DESIRABILITY OF AVOIDING THE STRAIT JACKET OF A PARTICULAR PROCEDURE OR FRAMEWORK AND OF MAINTAINING MAXIMUM FLEXIBILITY, AND TO MY EXPRESSION OF DOUBTS ABOUT THE UTILITY OF SUCH MECHANISMS AS THE CORRECTIONS OF PREVIOUS MATHEMATICAL ERRORS AND THE USE OF A RECONSTITUTED COPPER TRIBUNAL. HE THEN SAID HE AGREED FULLY AND HAD BEEN URGING THE JUNTA GOVERNMENT TO NAME A SMALL GROUP IN WHICH IT COULD HAVE COMPLETE CONFIDENCE TO TRY TO RESOLVE THIS PROBLEM THROUGH SEEKING TO WORK OUT AGREEMENTS DIRECTLY WITH THE COMPANIES. UNDER HIS PROPOSAL THE PROCEDURES AND MECHANISMS TO PERMIT THE IMPLEMENTATION OF AGREEMENTS REACHED WITH THE COMPANIES, OR THE FRAMEWORK TO ENCOMPASS THEM, WOULD BE LEFT FOR DETERMINATION UNTIL AFTER THE AGREEMENTS ARE REACHED. HE BELIEVES THE GOVERNMENT MUST PROCEED IN THIS MATTER WITH THE SAME SPEED AND DECISIVENESS EMPLOYED IN THE OUSTER OF ALLENDE. HE HOPES THE GOVERNMENT WILL ACCEPT THIS PROPOSAL BUT IS BY NO MEANS SURE. THE ESTABLISHED BUREAUCRACY, "OF ALL THOSE WHO HAVE HAD SOMETHING TO DO WITH COPPER IN THE PAST AND OF THOSE WHO WANT TO HAVE SOMETHING TO DO WITH IT," IS PRESSING A DIFFERENT PROPOSAL ON THE GOVERNMENT. LATTER PROPOSE THAT MECHANISMS OR FRAMEWORK FOR SETTLING THESE ISSUES BE ESTABLISHED FIRST, FOLLOWED BY AN EFFORT TO MAKE THE CASES FIT INTO THE ESTABLISHED FRAMEWORK. UNDER THIS PROCEDURE SAENZ FORESEES THAT GOC AGENCIES WILL EXCHANGE MEMORANDA INTERMINABLY, FORESTALLING ANY RESOLUTION OF THIS PROBLEM FOR AT LEAST THREE TO FIVE YEARS.

SECRET

SECRET

PAGE 03 SANTI 05451 072353Z

IF THIS THESIS PREVAILS, IT IS CHILE THAT WILL BE THE LOSER, ACCORDING TO SAENZ. ANACONDA, FOR EXAMPLE, CAN PERFECTLY WELL TOLERATE THE DELAY ALTHOUGH IT MAY LOSE A PRESIDENT OR TWO IN THE PROCESS. THE CHILEAN ECONOMY CANNOT TOLERATE THE DELAY, NOR, SAYS SAENZ, WILL HE. REMARKING THAT HIS ONLY CAPITAL IS HIS REPUTATION, SAENZ SAYS HE WILL RESIGN RATHER THAN BE ASSOCIATED WITH SUCH A DECISION. SAENZ SAYS THAT HE AND HIS PEOPLE ARE PUSHING THEIR THESIS HARD (CLARO CONFIRMED). HOWEVER,

THE DEBATE IS NOW JOINED AND IT IS FOR THE JUNTA TO DECIDE.  
ACCORDING TO SAENZ, THE DECISION CAN GO EITHER WAY.

6. IN MAKING THE POINT ABOUT THE IMPORTANCE OF THE GOC'S MAINTAINING CONTACT WITH AND THE FAVORABLE ATTITUDE OF THE COMPANIES, I CITED WALSH'S EXPERIENCE. SAENZ AFFIRMED THAT WALSH HAD EVERY REASON TO EXPECT AN INVITATION TO RESUME NEGOTIATION BY THE END OF LAST WEEK. SAENZ HIMSELF FULLY EXPECTED TO BE ABLE TO SEND WALSH THE INVITATION BUT HAS NOT BEEN ABLE TO DO SO PRECISELY BECAUSE OF THE UNRESOLVED DEBATE WITHIN THE GOC AS TO HOW TO PROCEED. SAENZ FINDS THIS ENORMOUSLY FRUSTRATING SINCE HE INSISTS THAT A CERRO AGREEMENT IS VIRTUALLY IN HAND AND COULD EASILY BE CONSUMMATED IN THREE DAYS OF DIRECT TALKS.

7. COMMENT: SAENZ IS SIGNALLING THAT HIS PROPOSAL FOR DEALING WITH THE COPPER PROBLEM IS IN TROUBLE AND THAT HE NEEDS HELP. IT WOULD BE EASIER TO JUDGE OUR BEST COURSE IF WE KNEW MORE ABOUT THE ALTERNATIVE PROPOSAL BEFORE THE JUNTA THAN SIMPLY SAENZ'S VERSION OF IT. UNFORTUNATELY WE DO NOT. WE SHALL TRY TO LEARN MORE OF IT BUT THE JUNTA COULD COME TO A DECISION BEFORE WE HAVE ANY BETTER INFORMATION. HOW THE GOC SHOULD PROCEED TO ADDRESS COPPER COMPENSATION IS, OF COURSE, A PROBLEM WITHIN AND FOR THE CHILEAN GOVERNMENT. AS SUCH, IT IS PRIMARILY THEIR RESPONSIBILITY TO SORT IT OUT. ON THE OTHER HAND, U.S. INTERESTS AND U.S.-CHILEAN RELATIONS WILL BE SIGNIFICANTLY AFFECTED BY THE JUNTA'S DECISION. THERE IS SOME RISK ASSOCIATED WITH ANY EFFORT ON OUR PART TO INFLUENCE THIS DECISION. HOWEVER, THERE IS ALSO THE RISK OF A DECISION TO REJECT THE SAENZ PROPOSAL IF WE TAKE NO ACTION. TO MY MIND, THE LATTER RISK OUTWEIGHTS THE FORMER. RECOMMENDATION: ON BALANCE, I RECOMMEND THAT THE DEPARTMENT CONSIDER AUTHORIZING ME TO DISCUSS THIS MATTER WITH JUNTA MEMBER MERINO AS CHAIRMAN  
SECRET

SECRET

PAGE 04 SANTI 05451 072353Z

OF THE GOC ECONOMIC COUNCIL. SUCH AN APPROACH COULD BE COUCHED IN TERMS OF OUR FRIENDLY INTEREST IN SOLVING PROBLEMS AFFECTING OUR RELATIONSHIP. IT COULD BE LIMITED TO AN EXPRESSION OF OUR VIEW THAT THERE IS GREAT MERIT IN EARLY GOC ACTION TO IMPLEMENT ITS DESIRE TO RESOLVE THESE CASES, WHILE RETAINING MAXIMUM FLEXIBILITY AND AVOIDING COMMITMENT TO A PARTICULAR PROCEDURE WHICH MAY NOT SERVE IN ALL CASES. THIS SHOULD BE ACCEPTABLE TO MERINO, WOULD NOT ADDRESS OR MAKE US PARTISANS IN THE INTRA-GOC DEBATE, AND YET COULD HELP PREVENT JUNTA APPROVAL OF A RIGID OR INORDINATELY TIME-CONSUMING FORMULA.  
THOMPSON

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